

### 3.32.070 Claims to recover erroneously paid tax

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#### **3.32.070 – Claims to recover erroneously paid tax**

- A. The Filing of Claims. Where an operator pays hotel operators' tax to the comptroller in error, either as a result of a mistake of fact or an error of law, the operator may file a claim with the comptroller upon a form which the comptroller prescribes and will issue on request.
- B. Bearing the Burden of the Tax. In addition to proving that he did not owe the tax for which recovery is sought, the claimant must also prove that he bore the burden of the amount of such tax, either by not shifting the burden of the tax to anyone else in the first instance, or by unconditionally refunding any amounts passed on because of the tax to his customers, who bore the burden thereof.
- C. Statute of Limitations. As to any claim filed with the comptroller on and after each January 1st and July 1st, no amount of tax or penalty erroneously paid (either in total or partial liquidation of a tax or penalty) under this chapter more than three years prior to such January 1st and July 1st, respectively, shall be credited or refunded.
- D. Credit Memorandum or Refund. When any claim is allowed, the City Council may issue a credit memorandum to the claimant for the amount so allowed or refund such amount in such manner as the City Council shall determine or as set forth in Section 3.32.070 (E) below.
- E. Refunds. In case the City Council determines that the claimant is entitled to a refund, such refund shall be made only from such budgeted amount as may be available for that purpose. If it appears unlikely that the amount budgeted would permit everyone having a claim allowed during the period covered by such budgeted amount to elect to receive a cash refund, the City Council will make such refunds only in hardship cases (i.e., in cases in which the claimant cannot use a credit memorandum.)

(1995-M-19 : § 1; 1986-M-27 : § 1; 1983-M-17 : § 1 (part))